

REPORTS

§293.91. Reporting by Districts.

(a) All districts are required to submit certain documents and reports to the executive director by the Texas Water Code, Chapter 49, as follows:

(1) a certified copy of the order or legislative act creating the district within 60 days after the date the district is created;

(2) certified copy of the order of the district's governing board changing the boundaries of the district within 60 days after the date of any boundary change together with a linen tracing or other map of equal quality showing the new boundaries;

(3) a written notification to the executive director of the name, mailing address and date of expiration of term of office of any elected or appointed director within 30 days after the date of the election or appointment;

(4) a certified copy of the audit report within 15 days after the date of completion of any audit of the affairs of the district, other than the annual audit required by Water Code, §49.191;

(5) an annual audit report, financial report, or financial dormancy affidavit, as required by subsections (c), (e) and (f) of §293.94 of this title (relating to Annual financial Reporting Requirements); and

(6) an annual filing affidavit, as required by subsection (g) of §293.94 of this title (relating to Annual financial Reporting Requirements), and Water Code, §49.194(d), certifying that all filings of copies of the annual audit report, an annual financial dormancy affidavit, or annual financial report, as applicable, have been completed.

(b) Districts created pursuant to general law under provisions of the Texas Water Code are subject to specific reporting requirements. Each district should comply carefully with the reporting requirements provided in the Texas Water Code chapter under which it was created. Districts created pursuant to special acts of the Texas Legislature may be subject to specific reporting requirements. Each district so created should comply carefully with any reporting requirements contained in special act of the Texas Legislature under which it was created.

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§293.92. Additional Reports and Information Required of Certain Districts.

A district which is providing or proposing to provide, as the district's principal function, water, wastewater, drainage, and flood control or protection facilities or services, or any of these facilities or services that have been financed or are proposed to be financed with bonds of the district payable in whole or in part from taxes of the district, or by imposition of a standby fee to household or commercial

users, other than agricultural or irrigation users, and which district includes less than all the territory in at least one county and which, if located within the corporate area of a city, includes less than 75% of the incorporated area of the city or which is located outside the corporate area of a city in whole or in substantial part shall submit such additional reports and information as may be required by the executive director from time to time.

(1) The information shall include:

(A) The name of the district;

(B) The complete and accurate legal description of the boundaries of the district;

(C) The most recent rate of district taxes on property located in the district;

(D) The total amount of bonds which have been approved by the voters and which may be issued by the district (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity);

(E) the aggregate initial principal amount of all bonds of the district payable in whole or in part from taxes (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) which have been previously issued and remain outstanding;

(F) whether a standby fee is imposed by the district, and, if so, the amount of the standby fee;

(G) the date on which the election to confirm the creation of the district was held, if such was required;

(H) a statement of the functions performed or to be performed by the district;

(I) the particular form of Notice to Purchasers required by Water Code, §49.452 to be furnished by a seller to a purchaser of real property in that district completed by the district with all information required to be furnished by the district; and

(J) a complete and accurate map or plat showing the boundaries of the district.

(K) If a district has not yet levied taxes, a statement to such effect together with the district's projected rate of debt service tax estimated at the time of creation of the district shall be substituted for subparagraphs (C) and (D) of this paragraph.

(i) The information and map or plat required by this section and each amendment to the same shall be signed by a majority of the members of the governing board of the district and by each such officer affirmed and acknowledged, before it is filed with the county clerk.

(ii) The information form required by this section shall be filed with the county clerk within 48 hours after the district is officially created. For purposes of this section, the words "officially created" mean the date and hour in which the results of the election to confirm the creation of the district are declared.

(iii) Within seven days after a change in any of the information contained in the district information form, map or plat, the district shall file with the county clerk an amendment setting forth the changes made.

(iv) A copy of all information forms, maps, plats, and amendments thereto filed under this section shall also be filed with the executive director within five days of its filing with the county clerk.

(v) If a district fails to submit the information required by this section in the time required, the executive director may request the attorney general, or the district or county attorney of the county in which the district is located, to seek a writ of mandamus to force the governing board of the district to prepare and submit the necessary information.

(vi) If a district covered by the provisions of this section is dissolved, annexed to another local government or is consolidated with another district, the members of the governing board shall file a statement of this fact together with the effective date of the dissolution, annexation, or consolidation with the information form.

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§293.93. Special Reporting Requirements for Districts Subject to Consent Agreements Made Pursuant to the Texas Water Code, §54.016(h).

Districts created subject to the consent agreements authorized by the Texas Water Code, §54.016(h), shall submit the duly affirmed and acknowledged statement, and the map or plat, required by Water Code, §54.016(h)(4)(B), together with the reports and information required by Water Code, §§49.455(c)-49.455(j), as incorporated by reference into Water Code, §54.016(h)(4)(B).

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§293.94. Annual Financial Reporting Requirements.

(a) Statutory provisions for fiscal accountability. All districts as defined in Water Code, §49.001(a) are required to comply with the provisions of Water Code, §49.191-49.198 requiring every district to either have performed an annual audit or to submit an annual financial dormancy affidavit or an annual financial report.

(b) Accounting and auditing manuals. All districts shall comply with the accounting and auditing manuals adopted by the executive director. The manuals shall consist of two publications, "Water District Accounting Manual" and "Annual Audit Report Requirements". The manuals may be revised as necessary by the executive director.

(c) Duty to audit. The governing board of each district created under the general law or by special act of the legislature shall have the district's fiscal accounts and records audited annually at the expense of the district. The person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy. Districts with limited or no financial activity may qualify to prepare an unaudited financial report, pursuant to subsection (e) of this section, or a financial dormancy affidavit, pursuant to subsection (f) of this section.

(d) Form of audit. The audit shall be performed according to generally accepted auditing standards adopted by the American Institute of Certified Public Accountants. Financial statements shall be prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants.

(e) Audit report exemption.

(1) A district that is not collecting taxes may elect to submit annual financial reports to the executive director in lieu of the district's compliance with Water Code, §49.191 provided:

(A) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(B) the district did not have gross receipts from operations, loans, or contributions in excess of \$100,000 during the fiscal period; and

(C) the district's cash and temporary investments were not in excess of \$100,000 at any time during the fiscal period.

(2) The annual financial report must be accompanied by an affidavit, attesting to the accuracy and authenticity of the financial report, signed by a duly authorized representative of the district, which conforms with the format prescribed by the executive director. Financial report and filing affidavit forms may be obtained from the executive director.

(3) Districts governed by this section are subject to periodic audits by the executive director.

(f) Financially dormant districts.

(1) A district may elect to prepare a financial dormancy affidavit rather than an unaudited financial report, as prescribed by subsection (e) of this section, provided:

(A) the district had \$500 or less of receipts from operations, tax assessments, loans, contributions, or any other sources during the calendar year;

(B) the district had \$500 or less of disbursements of funds during the calendar year;

(C) the district had no bonds or other long-term (more than one year) liabilities outstanding during the calendar year; and

(D) the district did not have cash or investments in excess of \$5,000 at any time during the calendar year.

(2) The required financial dormancy and filing affidavit shall be prepared in a format prescribed by the executive director and shall be submitted by a duly authorized representative of the district. Financial dormancy affidavit forms may be obtained from the executive director.

(3) Districts governed by this section are subject to periodic audits by the executive director.

(g) Annual filing affidavit. Each district shall submit annually with the executive director a filing affidavit which affirms that copies of the district's audit report, financial report, or financial dormancy affidavit have been filed within the district's business office. Each district that files a financial report or a financial dormancy affidavit will find that the annual filing affidavit has been incorporated within those documents, so a separate filing affidavit form is not necessary. However, each district that submits an audit report must execute and submit, together with the audit, an annual filing affidavit when the audit is submitted with the executive director. Annual filing affidavits must conform to the format prescribed by the executive director. Filing affidavit forms may be obtained from the executive director.

(h) Submitting of audits, financial reports, and affidavits.

(1) Submittal dates.

(A) Audits. Audit reports and the annual filing affidavits that must accompany those reports shall be submitted as prescribed by paragraph (2) of this subsection within 135 days after the close of the district's fiscal year. The district's governing board shall approve the audit before a copy of the report is submitted to the executive director; however, the governing board's refusal to approve the audit shall not extend the submittal deadline for the audit report. If the governing board refuses to approve the audit, the board shall submit to the executive director by the prescribed submittal date the report and a statement providing the reasons for the board's refusal to approve the report.

(B) Financial reports. Financial reports and the annual filing affidavits in a format prescribed by the executive director, must be submitted to the executive director as prescribed by paragraph (2) of this subsection within 45 days after the close of the district's fiscal year.

(C) Financial dormancy affidavits. Financial dormancy affidavits shall be filed as prescribed by paragraph (2) of this subsection by January 31 of each year. The calendar year affidavit affirms that the district met the financial dormancy requirements stated in subsection (f) of this section during part or all of the calendar year immediately preceding the January 31 filing date.

(2) Submittal locations. Copies of the audit, financial report, or financial dormancy affidavit described in subsections (c), (e) and (f) of this section shall be submittal annually to the executive director, and within the district's office.

(i) Review by executive director.

(1) The executive director may review the audit report of each district, and if the executive director has any objections or determines any violations of generally accepted auditing standards or accounting principles, statutes or commission rules, or if the executive director has any recommendations, he shall notify the governing board of the district.

(2) Before the audit report may be accepted by the executive director as being in compliance with the provisions of this section, the governing board and the auditor shall remedy objections and correct violations of which they have been notified by the executive director.

(3) Districts governed by this section are subject to periodic audits by the executive director. The executive director shall have access to all vouchers, receipts, district fiscal and financial records, and other district records which the executive director considers necessary for the review, analysis, and approval of an audit report, financial report, or financial dormancy affidavit.

(j) Penalties for Noncompliance.

(1) The executive director shall file with the attorney general the names of any districts that do not comply with the provisions of this subchapter.

(2) A district that fails to comply with the filing provisions of Texas Water Code, Chapter 49, may be subject to a civil penalty of up to \$100 per day for each day the district wilfully continues to violate these provisions after receipt of written notice of violation from the executive director by certified mail, return receipt requested. The state may sue to recover the penalty.

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§293.95. Access to and Maintenance of District Records.

(a) The governing board of each district shall ensure that the minutes of governing board meetings and the district's accounting records are prepared on a timely basis and maintained in an orderly manner throughout the district's fiscal year in accordance with the guidelines set forth in the publication Water District Accounting Manual. Each district shall preserve its minutes, contracts, notices, accounts, and all other records or certified copies thereof in a safe place, suitable for public inspection. All records, including the fiscal records, shall be available for public inspection during regular business hours. A district's fiscal records may be removed from the district's office for the purpose of recording its fiscal affairs and for preparing an audit, during which time the fiscal records are under the control of the district's auditor. Those districts proposing to provide or actually providing water and wastewater services or either of these services to household users as the principal function of the district and having at least 100 qualified electors residing in the district shall maintain all district fiscal records in a district office located in the district.

(b) Each district, whether active or dormant, shall maintain records sufficient to determine amounts paid by a developer or others, to any other party or parties, on behalf of the district. Such payments shall be disclosed in all of the audit reports, financial reports, or financial dormancy affidavits that are required to be filed by subsections (c), (e) and (f) of this section.

(c) Districts using proprietary funds (e.g., enterprise funds) in their audited financial statements shall provide sufficient supplemental information to demonstrate compliance with all legal restrictions on the use of district monies. Such supplemental information shall be shown on the format included in the "Annual Audit Report Requirements".

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§293.96. Miscellaneous Reports To Be Submitted to the Executive Director.

(a) Certified copy of order canvassing results of any maintenance tax elections shall be filed within 30 days after adoption.

(b) Certified copy of water and wastewater rate order adopted by the board and any amendments thereto, shall be submitted within 30 days of adoption.

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§293.97. Adoption of Fiscal Year and Operating Budget.

(a) Fiscal year. Within 30 days after a district becomes financially active, the governing board of that district shall adopt a fiscal year by a formal board resolution and so note it in the district's minutes. The president or chairman of the governing board, a member of the board designated by the presiding officer, or the attorney representing the district shall notify the executive director of the adopted fiscal year within 30 days after adoption.

(b) Operating Budget. Prior to the start of a fiscal year, the governing board of each active district shall adopt an operating budget for the upcoming fiscal year. The adopted budget and any subsequent amendments shall be passed and approved by a resolution of the governing board and shall be made a part of the governing board minutes. Budget amendments may be made from time to time in the discretion of the governing board. The adopted budget is not a spending limitation imposed by the commission. However, the governing board may adopt rules to limit the spending authority of the district officers in relation to the budget. A comparison of the actual operating results to the adopted budget, as amended, shall be presented in the annual report of each district. The budgetary comparison statement shall be included either within the audited financial statements or within a supplementary section.

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